

Energy Efficiency and Conservation Block Grant
Formula Grants to Smaller Jurisdictions
Frequently Asked Questions and Answers
August 5, 2009

The following questions have been received by the Department of Commerce and answers provided at the July 2009 application workshops and through phone calls and emails. This will be updated periodically for interested applicants on the agency web site.

Q: The preliminary application guidelines state that costs incurred prior to the date of award will not be reimbursed. Is this the date of contract or the date of expenditure?

A: It is the date of the award of the contract, which is the date that the applicant is notified that they will be awarded funding.

Q: Can a jurisdiction apply to all three pots of EECBG – subgrants to smaller jurisdictions, grants for energy efficient transportation planning, and the Resource Conservation Manager program?

A: The smaller jurisdictions can apply for all three. The larger jurisdictions can only apply for energy efficient transportation planning and RCM.

Q: What is the date of expenditure for funds that may be used for match (called “other funds” in the application guidelines)?

A: January 1, 2009.

Q: If jurisdictions choose to partner in an application, can each jurisdiction get \$135,000?

A: Yes. For example, if three cities apply for a grant they can get three times \$135,000 or \$135,000 each.

Q. Will there be NEPA coordination with SEPA?

A: The Governor’s Office of Regulatory Assistance is available to work with applicants.

Q. If you choose to issue general obligation bonds as a part of the funding will grant funds be considered as supplanting because you could have funded the entire project with bonds?

A: No.

Q. When weatherizing a building can you use grant funds for meeting other codes and requirements such as American Disabilities Act requirements?

A: No.

Q. Does NEPA apply to code development?

A: No. Not according to the DOE guidance.

Q: If three cities work together to submit a joint application, would they submit jointly or separately?

A: They should submit one application with one of the cities as the lead applicant. The lead applicant city can subcontract with the other two cities.

Q: If cities partner in an application, must they provide separate quarterly reports to the Department?

A: No. The lead applicant will be responsible for quarterly reporting to the Department. However, each partner receiving funds as a subcontractor will be required to provide the information for quarterly reports to the lead applicant for compilation and reporting to the Department. All requirements under the Recovery Act flow through to subcontractors.

Q: What is the larger strategy for these funds?

A: The Energy Efficiency and Conservation Strategy that the state submitted to U.S. DOE as part of its application on June 22. The Strategy is on the Commerce Recovery Act web site.

Q: Do the tribes have funding set aside separate from this?

A: Yes. They were awarded funding directly from DOE.

Q: Does it matter if energy from renewable energy on a public building is net metered or put back into the grid?

A: No.

Q: Is there a match required?

A: No. But applicants will get points for providing their own funds or other funds as part of the project or program.

Q: Can you use the funds for a retrofit of the lighting in a building with a swimming pool?

A: No. The Recovery Act prohibits the use of funds for swimming pools, gambling establishments, aquariums, zoos, and golf courses. No funds can be used for any activity whatsoever at a prohibited establishment. Any activities at facilities that are adjacent to any of the prohibited establishments and benefit any of the prohibited establishments are also prohibited. We realize this may make it difficult for large single facilities with indoor pools such as schools, but the Recovery Act is clear.

Q: Are the points for scoring on a sliding scale?

A: Yes.

Q: Is NEPA required?

A: It depends upon the activity. Please refer to the guidelines for the list of activities that do not require NEPA review.

Q: Can you use other federal funds with the Block Grant funds?

A: Yes. Other federal funds, including Recovery Act funds, can be used.

Q: What about the limit on the use of Block Grant funds for revolving loan funds of 20% or \$250,000, whichever is more?

A: Since the funding limit for the grant is \$135,000, and that is less than \$250,000, there is no limit on use of the funds for a revolving loan fund.

Q: Regarding the Buy American requirements, if funding is being invested in private weatherization is it considered a public project or public work?

A: We have not received specific guidance on this topic from the U.S Department of Energy (U.S. DOE). The interim rule issued by the Office of Management and Budget on April 23, 2009 defines “public project or public work” as follows.

(2) *Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

We are still working on getting a specific answer to this question regarding private weatherization. You may want to consult legal counsel pending further guidance from U.S. DOE. In considering this issue, applicants should also think about whether the products that would be used to weatherize a home would create issues of compliance with the Buy America requirement – i.e. are they manufactured in the U.S.?

For a complete copy of the OMB interim rule, go to

<http://edocket.access.gpo.gov/2009/pdf/E9-9073.pdf>

Q: If a project is being done by a city with their own staff, does Davis-Bacon apply?

A: Under most Davis-Bacon statutes, only employees of contractors or subcontractors are subject to Davis-Bacon wage requirements. In some instances, rather than contracting or subcontracting out construction work, a grant recipient performs the construction in house, with its own "force account" employees. Such force account work is not subject to Davis-Bacon wage requirements under statutes that cover only employees of contractors or subcontractors. However, we again recommend that you consult legal counsel pending further guidance from U.S. DOE.

Question: We are a city less than 35,000 in population in a county that is receiving funds directly from DOE? Are we eligible to apply for EECBG funds from the Department?

Answer: Yes, you are eligible. Eligibility is based upon your population and not in which county you are located.

Question: Can EECBG funds be used for new construction?

Answer: Yes. Based on the method that the utilities would use in determining an incentive for a project, the analysis would look like this.

For a new project, including one that begins with a tear down, a city or county will need to fund all the construction costs to meet the state energy code. If the city or county includes measures that improve efficiency beyond the energy code requirements, the incremental cost of the additional energy efficiency achieved could be funded.

For example, improving the efficiency of water heating equipment above the baseline unit.

Energy code-compliant large commercial water heater: \$2200.

Condensing Water Heater: \$4100.

Utility funding: $4100 - 2200 = \$1900$.

Other measures that may be eligible if energy efficiency beyond the code will be achieved:

- Lighting, daylighting, lighting controls.
- Heat recovery ventilation.
- Energy efficient clothes washers.
- Space heating equipment.
- Building insulation.

Q: Can we use EECBG funds to acquire hybrid trucks for public works?

A: For the purchase of vehicles, DOE has determined that only the delta – the difference between the cost of a non-hybrid vehicle and a hybrid vehicle of similar miles-per-gallon rating) is eligible.